

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
AND SPECIAL BOARDS, COMMISSIONS, AND COMMITTEES MEETING  
MINUTES – NOVEMBER 11, 2003**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 5:10 p.m.

**ROLL CALL ATTENDANCE**

**Council**

Present: Mayor Kennedy and Council Members Carr, Chang, Sellers, and Tate.

**Architectural and Site Review Board**

Present: Rod Martin, James Fruit

Absent: Yarmila Kennett, Jerry Pyle

**Bicycle & Trails Advisory Committee**

Present: Alan Clark, Bob Eltgroth, Christopher Hauge, Mark Hubbell, Carl McCann

Absent: Steven Cheu, Mark Frederick

**Library Commission**

Present: Einer Anderson, Charles Cameron, George Nale,

Absent: Jeanne Gregg, Charles Dillmann, Ruth Phebus, Mary Ellen Salzano, Kathleen Stanaway

**Mobile Home Rent Commission**

Present: John Liegl, Mark Moore, Robert Graham

Absent: Charles Dillmann

**Corporation Yard Commission**

Present: Roger Knopf

Absent: Del Foster, George Panos

**Parks & Recreation Commission**

Present: Don Jensen, Daniel Kenney, Marilyn Librers

Absent: Craig vanKeulen, Mark Frederick, Laura Hagiperos, Rick Page, Amina Khemici

**Planning Commission**

Present: Geno Acevedo, Joseph Mueller, Robert Benich, Bob Engles, Robert Escobar, Ralph Lyle

Absent: Charles Weston

**Senior Advisory Committee**

Present: Marilyn Gadway, William Keig, John Bautista, Sharon Leonard, Kenneth Mort, Charles Swann

Absent: Gloria Subocz,

### **Youth Advisory Committee**

Present: Brittany Back, Christopher England, Jonathan O'Mahen, Nick Sign, Lauren Vu and  
Katherine Soult (Associate Member)  
Absent: Stephanie Chang, Billy Lewis, Christopher Van Keulen, Laynne Tainter

### **DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **PUBLIC COMMENT**

### **WORKSHOP:**

#### **1. ETHICS, CONFLICTS OF INTEREST, AND EX PARTE CONTACTS WORKSHOP**

Mayor Kennedy indicated that the Council recently adopted an *Ex Parte Contacts* policy. He stated the Council appointed him and Council Member Tate, along with City Attorney Leichter, to develop a value-based ethics approach policy for Council, committees and staff to follow to address communication expectation in actions taken. Tonight, the first phase of the ethics policy will be introduced, requesting feedback from those in attendance.

City Attorney Leichter addressed the importance of ethics and the common values that segue into the creation of a policy the Council feels is important to adhere to. She identified the paper work distributed this evening: power point outline; framework for thinking ethically; Council's recently adopted Ex Parte Contacts policy; a draft ethics policy; and a behavioral standards matrix.

Council Member Tate addressed governmental ethics indicating that some governmental officials have gotten into ethical problems based on actions taken with increased heightened general public awareness.

City Attorney Leichter identified the reasons why the City is looking at ethics now: general public awareness heightened; collective reflective discussion, priorities among competing values, positive public identify, and ethical environment. She indicated that the City still has a rules based system in the Political Reform Act, Government Code 1090, Incompatible offices, Brown Act, adopted Ex Parte Contacts policy; and common laws relating to conflicts of interest.

Bob Benich did not believe that the Ex Parte Contact policy should apply to commissioners as he likes to visits sites as it assists him in the evaluation of projects that come before the Planning Commission.

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City Attorney Leichter clarified that site visits are acceptable as long as the board, commissioner or committee members discloses Ex Parte Contacts and site visits. The Ex Parte Contact policy simply formalizes this process in order to level the playing field.

Council Member Tate and Mayor Kennedy addressed samples of value-based ethics systems (e.g., Chamber of Commerce and Santa Clara University examples). It was noted that there are a lot of different approaches to the establishment of ethical standards.

Mobile Home Rent Commissioner John Liegl felt that stake holders need to be identified as certain stake holders sometimes get over looked

City Attorney Leichter addressed the crafting of an ethics policy and its substance. She indicated that the policy presented would apply to everyone associated with the city, including volunteers and commission members.

Council Member Sellers felt that the policy should apply to staff, elected officials, boards and commissions in order to create an atmosphere of trust in the community. He suggested that there be leniency for those in advisory levels but felt that all need to act ethically. He stated that he looks forward to disclosing ex parte contacts and site visits partly so that individuals know that one has done their homework.

City Attorney Leichter said that the City Council and staff believe that it is important to visit sites but that individuals have to be cognizant in the disclosing of site visits.

Mobile Home Rent Commissioner John Liegl stated that once a citizen accepts to serve the City in some capacity, they accept being an ethical part of the city. Even though appointed officials are appointed, they have to act in an ethical manner as well.

Council Member Tate stated that the City Council has delegated some decision authority to citizens assuming that the kinds of values and ethical standards the Council are expected to have are being applied by the Council's boards, commission and committees.

Corporation Yard Commissioner Roger Knopf said that the City would like to develop a culture in the policy that projects into the greater community. Therefore, everyone associated with the City, whether elected or appointed, should be held to the same standards.

Planning Commissioner Bob Escobar stated that even though an individual may have formed an opinion, there has to be room for objectivity in the discussion so that there is an opportunity to have this opinion changed. He felt that individuals should be allowed to come forward and help formulate the direction of the City. He felt that individuals may come in with opinions but need to be objective in their evaluation.

Planning Commissioner Ralph Lyle noted that subcommittees are not addressed and inquired whether this policy would apply to subcommittees such as the Urban Limit Line, Measure P Update or General Plan Update subcommittees.

City Attorney Leichter felt that an ethics policy should apply to all subcommittees. She noted that the workshop was being taped this evening and that those commissioners, board, and committee members who are not present this evening may be receiving direction from the Council to view this video. She addressed the suggested ethics policy process. She requested feedback from this workshop and future workshops to help the Council endorse this process.

Mayor Kennedy addressed the core human values of fairness, respect, responsibility, compassion and honesty. Others identified were forgiveness, cultural/diversity, community interest versus self interest, caring, leaving a positive legacy, giving back to the community, intellectual capacity, patience, and tolerance.

Council Member Tate addressed the following public sector ethical values: professionalism, service oriented, fiscally responsible, organized, collaborative, visionary, loyalty, and ethical. Others identified were: trust worthy, honest, truthful, impartial, equity, respectful, caring, taking time & delivering, thoughtfulness, team player, respect for process, perception, structure, temperance, consensus building, idealism, sense of humor, stick to your guns but do no harm, doing what is best for the community, and know when to stop.

Mobile Home Rent Commissioner Mark Moore felt that the following traits could be included in an ethics policy: independence, self driven and self directed.

Senior Advisory Committee Member Ken Mort felt that a good chart would be labeled as “core public attributes” as the terms “collaborative” and “organized” are not ethical traits.

Mobile Home Rent Commissioner John Liegl felt that being organized addresses respect of peoples’ time and that respect is an attribute of “ethics.”

Youth Advisory Committee Associate Member Katherine Soult suggested that temperance and not letting your subjective views let you get carried away were ethical traits.

Planning Commissioner Lyle felt that ethical values were good but that you should not have blind adherence to the qualities.

Mayor Pro Tempore Chang addressed the issue of holding individual values by voting conscious, even if you are not voting with the majority. She stated that she would need to do what is necessary to try and stop an action from taking place.

Council Member Tate said that there has to be mutual respect for individuals and the direction the majority of the group is heading.

Mayor Kennedy said that the City needs a statement that will address when it is time to let go when a majority of the Council is ready to move forward.

Planning Commissioner Bob Escobar felt that even if there is a 4-1 vote, the process is still working. The process allows for dialogue and difference in views on what is being presented. He felt that an individual has a right to disagree, holding on to their views and not compromise their own integrity where they come from as long as they do not do anything inappropriate to preclude the action voted upon by the majority. Individuals need to be mindful to protect the rights of individuals. Individuals have a right to disagree and carry out their disagreement as long as it is not inappropriate and does not violate the law.

Council Member Sellers felt that it was important to make sure that all view points are considered and respected.

Council Member Carr stated that you can try to remain true and loyal to your interest and yet remain respectful to colleagues, staying within the process to be able to make a decision. If you do not, you no longer have a process or free government.

Bicycle & Trails Advisory Committee Member Chris Hauge said that you may create a problem when there is discontent. You have to weigh how much harm will be created from the good you are trying to accomplish.

Parks & Recreation Commissioner Don Jensen noted that the City Council, boards, commissions and committees are made up of individuals who perceive what is good for the community. He felt that once a majority decision is made, you have to let go and move on to the next issue. Should an individual go back to an interest group and state that the majority of the body was wrong, harm is being done.

Mayor Pro Tempore Chang said that democracy is “majority rules” but not at the expense of the minority’s rights.

City Attorney Leichter said that parts of an ethics policy addresses accountability. She said that the ethics policy is before the boards, committees and commissions to address one core policy – ethics. She said that two documents that the Council would like to be put forward for consideration are the draft ethics policy and the behavioral standards matrix. She indicated that those interested in continuing with the process are invited to attend a workshop to be held in December.

Mayor Kennedy stated that the meeting started out with some general ideas from other cities and entities and that the feedback received this evening has been helpful. The Council will need to continue the process and have a follow up workshop in order to develop a document that everyone will buy into.

Council Member Tate requested that boards, committees and commissions read the behavioral standard matrix. He felt that meaningful conversations can be brought forth in order to determine where the City wants to go with regards to developing an ethics policy that will be adopted; one that everyone will buy into.

**Action:**        *No Action Taken.*

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 6:48 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**